

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 485.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
802	10:3632. 10:6111. 10:8632.	[None.] [None.] [None.]

The words “Navy . . . or Marine Corps” are substituted for the words “naval service”, in section 6111 of title 10, to conform to the definition of that term in section 5001(a)(3) of title 10. The words “and conclusive” are omitted as surplusage.

§ 803. Commissioned officers of Army or Air Force: forfeiture of pay when dropped from rolls

A commissioned officer of the Army or the Air Force who is dropped from the rolls under section 1161(b) of title 10 for absence without authority for three months forfeits all pay due or to become due.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
803	10:3633. 10:8633.	[None.] [None.]

[§ 804. Repealed. Pub. L. 104-106, div. A, title XI, § 1122(c)(1), Feb. 10, 1996, 110 Stat. 463]

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486, provided that pay and allowances do not accrue to enlisted member of Army or Air Force who is in confinement under sentence of dishonorable discharge, while execution of sentence to discharge is suspended.

[§ 805. Repealed. Pub. L. 99-145, title VI, § 683(b)(1), Nov. 8, 1985, 99 Stat. 665]

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486, required commanding officer to discourage the sale of pay by members of naval service. See section 701 of this title.

CHAPTER 17—MISCELLANEOUS RIGHTS AND BENEFITS

Sec.	
901.	Wartime pay of officer of armed force exercising command higher than his grade.
902.	Pay of crews of wrecked or lost naval vessels.
903.	Retired members recalled to active duty; former members.
[904.	Repealed.]
905.	Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances.
906.	Extension of enlistment: effect on pay and allowances.
907.	Enlisted members and warrant officers appointed as officers: pay and allowances stabilized.
908.	Employment of reserves and retired members by foreign governments.
909.	Special and incentive pay: payment at un-reduced rates during suspension of personnel laws.

AMENDMENTS

2001—Pub. L. 107-107, div. A, title VI, § 623(a)(2), Dec. 28, 2001, 115 Stat. 1143, added item 909.

1990—Pub. L. 101-510, div. A, title XIV, § 1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

1982—Pub. L. 97-295, § 3(6)(B), Oct. 12, 1982, 96 Stat. 1304, added item 908.

1980—Pub. L. 96-513, title V, § 506(8), Dec. 12, 1980, 94 Stat. 2919, struck out item 904 “Officers of Navy or Marine Corps promoted under chapter 545 of title 10: effective date of beginning of pay and allowances” and substituted “Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances” for “Officers of Navy or Marine Corps not covered by section 904 of this title: effective date of beginning of pay and allowances” in item 905.

Pub. L. 96-343, § 6(a)(2), Sept. 8, 1980, 94 Stat. 1127, substituted “and warrant officers appointed as officers:” for “appointed as officers:” in item 907.

1970—Pub. L. 91-484, § 1(2), Oct. 21, 1970, 84 Stat. 1084, added item 907.

§ 901. Wartime pay of officer of armed force exercising command higher than his grade

In time of war, an officer of an armed force who is serving with troops operating against an enemy and who exercises, under assignment in orders issued by competent authority, a command above that pertaining to his grade, is entitled to the pay and allowances (not above that of pay grade O-7) appropriate to the command so exercised.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
901	37:235a.	Apr. 26, 1898, ch. 191, § 7 (less last proviso), 30 Stat. 365.

Applicability of the source law to the Air Force is based on Transfer Order No. 25(zzz), of the Secretary of Defense, dated October 14, 1948. Its applicability, other than to the Army and the Air Force, is based upon an opinion of the Judge Advocate General of the Navy, JAG 135: DDC; dmt.; 4229, dated July 29, 1960. The words “(but not above that of pay grade O-7)” are substituted for section 235a (proviso) of existing title 37.

§ 902. Pay of crews of wrecked or lost naval vessels

(a) When the accounts of the disbursing officer of a naval vessel are lost as a result of the destruction of the vessel, his return for the last month may, unless there is official evidence to the contrary, be used in computing later credits to and settling accounts of persons, other than officers, carried on his accounts. If the return for the last month has not been made, the pay accounts may be settled on principles of equity and justice.

(b) When a naval vessel is lost or has not been heard from for so long that her loss may be presumed, the Secretary of the Navy may fix the date of loss of the vessel for the purpose of settling the accounts of persons aboard other than officers.

(c) When the crew of a naval vessel is separated from that vessel because of her wreck, loss, or destruction, the pay and emoluments of those officers and enlisted members that the Secretary considers (because of the sentence of a court-martial or the finding of a court of in-

quiry, or by other satisfactory evidence) to have done their utmost to save the vessel and, after the wreck, loss, or destruction, to have behaved themselves according to the discipline of the Navy, continue and shall be paid to them until their discharge or death, whichever is earlier.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 486; Pub. L. 104-316, title I, § 118, Oct. 19, 1996, 110 Stat. 3836.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
902(a)	10:6144.	[None.]
902(b)	10:6145.	[None.]
902(c)	37:243.	R.S. 1574.

In subsections (a) and (c), the words “naval vessel” are substituted for the words “any vessel of the United States”, in section 243 of existing title 37, and the words “vessel in the employ of the United States”, in section 6144 of title 10, for clarity and to conform to subsection (b).

In subsection (c), the word “continues” is substituted for the words “go on”. The words “whichever is earlier” are inserted for clarity. The words “or the findings of a” are inserted since a court of inquiry cannot impose a sentence.

AMENDMENTS

1996—Subsec. (b). Pub. L. 104-316 substituted “the Secretary of the Navy may” for “the General Accounting Office, under the direction of the Secretary of the Navy, may”.

§ 903. Retired members recalled to active duty; former members

A retired member or former member of a uniformed service, or a member of the Fleet Reserve or Fleet Marine Corps Reserve, who is serving on active duty is entitled to the pay and allowances to which he is entitled, under this title, for the grade, rank, or rating in which he is serving. In addition, while on active duty, he is entitled to the pay and allowances, while on leave of absence or while sick, of a member of a uniformed service of similar grade, rank, or rating who is entitled to basic pay.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 487.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
903	37:314.	Oct. 12, 1949, ch. 681, § 514, 63 Stat. 831.

The word “rating” is inserted for clarity. The words “is entitled to” are substituted for the words “shall . . . be entitled to receive and have the same . . . rights”. The last 41 words of section 314 of existing title 37 are omitted, since the sections mentioned therein were repealed by section 53(b) of the Act of August 10, 1956, ch. 1041 (70A Stat. 646). The subject of death benefits and entitlement thereto is now covered by chapter 75 of title 10.

[§ 904. Repealed. Pub. L. 96-513, title IV, § 403(a), Dec. 12, 1980, 94 Stat. 2904]

Section, Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 487; Pub. L. 90-130, § 3(2), Nov. 8, 1967, 81 Stat. 383; Pub. L. 90-623, § 3(8), Oct. 22, 1968, 82 Stat. 1315, set forth provisions relating to effective date of beginning of pay and allowances of officers of Navy or Marine Corps promoted under chapter 545 of Title 10, Armed Forces.

EFFECTIVE DATE OF REPEAL

Repeal effective Sept. 15, 1981, but with authority to prescribe regulations under the amendment by section 403(a) of Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as an Effective Date of 1980 Amendment note under section 101 of Title 10, Armed Forces.

§ 905. Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances

(a) A reserve officer who is promoted under chapter 1405 of title 10 to a grade above lieutenant (junior grade) in the Naval Reserve or above first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the grade to which promoted for duty performed from the date on which he becomes eligible for promotion to that grade.

(b) A reserve officer who is promoted under section 14308(b) of title 10 to the grade of lieutenant (junior grade) in the Naval Reserve or first lieutenant in the Marine Corps Reserve is entitled to the pay and allowances of the higher grade for duty performed from the date given him as his date of rank.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 488; Pub. L. 95-377, § 9, Sept. 19, 1978, 92 Stat. 721; Pub. L. 96-513, title IV, § 403(b), Dec. 12, 1980, 94 Stat. 2904; Pub. L. 103-337, div. A, title XVI, § 1676(b)(3), Oct. 5, 1994, 108 Stat. 3019.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
905(a)	10:6141.	[None.]
905(b)	10:5907.	[None.]
905(c)	10:5908(a) (last sentence).	[None.]
905(d)	10:5788(c).	[None.]
905(e)	10:5787b(c).	[None.]
905(f)	10:5505(c).	[None.]
905(g)	10:5597(h) (last sentence).	[None.]
	10:5597(i) (last 21 words).	[None.]
905(h)	10:5787(g) (last 21 words).	[None.]
	10:5787(h) (last sentence).	[None.]

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-337, § 1676(b)(3)(A), substituted “chapter 1405” for “chapter 549”.

Subsec. (b). Pub. L. 103-337, § 1676(b)(3)(B), substituted “section 14308(b)” for “section 5908”.

1980—Pub. L. 96-513 substituted “Reserve officers of the Navy or Marine Corps not on the active-duty list: effective date of pay and allowances” for “Officers of Navy or Marine Corps not covered by section 904 of this title: effective date of beginning of pay and allowances” in section catchline, and generally revised and restructured section, and as part of such restructuring struck out former subsec. (a), redesignated former subsecs. (b) and (c) as subsecs. (a) and (b), respectively, and, in subsec. (a) as so redesignated, struck out second sentence which related to establishment of an officer's professional and moral qualifications, and struck out former subsecs. (d) to (h).

1978—Subsec. (h). Pub. L. 95-377 inserted reference to section 5787d.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Sept. 15, 1981, but the authority to prescribe regulations under the

amendment by Pub. L. 96-513 effective on Dec. 12, 1980, see section 701 of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

TRANSITION PROVISIONS UNDER DEFENSE OFFICER
PERSONNEL MANAGEMENT ACT

For provisions to prevent extinction or premature termination of rights, duties, penalties, or proceedings that existed or were begun prior to the effective date of Pub. L. 96-513, and otherwise to allow for an orderly transition to the system of officer personnel management put in place under Pub. L. 96-513, see section 601 et seq. of Pub. L. 96-513, set out as a note under section 611 of Title 10, Armed Forces.

§ 906. Extension of enlistment: effect on pay and allowances

A member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, as the case may be, who extends his enlistment under section 509 of title 10 is entitled to the same pay and allowances as though he had reenlisted. For the purposes of determining entitlement to reenlistment bonus or to travel and transportation allowances upon discharge, all such extensions of an enlistment are considered one continuous extension.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 489; Pub. L. 90-235, §2(c), Jan. 2, 1968, 81 Stat. 757.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
906(a)	10:3263(b). 10:8263(b).	[None.] [None.]
906(b)	10:5539(b).	[None.]

In subsection (a), the words “who extends his enlistment” are substituted for the words “While serving under an enlistment extended”. The words “same pay and allowances as though he had reenlisted” are substituted for the last 31 words of section 3263(b) of title 10 and the last 31 words of section 8263(b) of title 10.

AMENDMENTS

1968—Pub. L. 90-235 struck out provisions formerly set out as subsec. (a) which provided that a member of the Army or Air Force who had extended his enlistment was entitled to the same pay as though he had reenlisted, redesignated as entire section provisions formerly set out as subsec. (b) and substituted “Army, Navy, Air Force, Marine Corps, or Coast Guard” for “Regular Navy or the Regular Marine Corps” and “section 509 of title 10” for “section 5539 of title 10”.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 907. Enlisted members and warrant officers appointed as officers: pay and allowances stabilized

(a) An enlisted member who accepts an appointment as an officer shall, for service as an officer, be paid the greater of—

(1) the pay and allowances to which he is entitled as an officer; or

(2) the pay and allowances to which he would be entitled if he were in the last enlisted grade he held before his appointment as an officer.

(b) A warrant officer who accepts an appointment as a commissioned officer in a pay grade above W-4 shall, for service as such a commissioned officer, be paid the greater of—

(1) the pay and allowances to which he is entitled as such a commissioned officer;

(2) the pay and allowances to which he would be entitled if he were in the last warrant officer grade he held before his appointment as such a commissioned officer; or

(3) in the case of an officer who was formerly an enlisted member, the pay and allowances to which he would be entitled if he were in the last enlisted grade he held before his appointment as an officer.

(c) For the purposes of this section—

(1) the pay and allowances of a grade formerly held by an officer include—

(A) subject to subsection (d), special and incentive pays under chapter 5 of this title; and

(B) subject to subsection (e), allowances under chapter 7 of this title; and

(2) the rates of pay and allowances of a grade which an officer formerly held are those to which the officer would have been entitled had he remained in that grade and continued to receive the increases in pay and allowances authorized for that grade, as otherwise provided in this title.

(d) In determining the amount of the pay and allowances of a grade formerly held by an officer, incentive pay for hazardous duty under section 301 of this title, special pay for diving duty under section 304 of this title, for hardship duty under section 305 of this title, and for sea duty under section 305a of this title, and proficiency pay under section 307 of this title may be considered only so long as the officer continues to perform the duty creating the entitlement to or eligibility for that pay and would otherwise be eligible to receive that pay in his former grade.

(e) The clothing allowance under section 418 of this title may not be considered in determining the amount of the pay and allowances of a grade formerly held by an officer if the officer is entitled to a uniform allowance under section 415 of this title.

(Added Pub. L. 91-484, §1(1), Oct. 21, 1970, 84 Stat. 1083; amended Pub. L. 96-343, §6(a)(1), Sept. 8, 1980, 94 Stat. 1126; Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 105-85, div. A, title VI, §619(d), Nov. 18, 1997, 111 Stat. 1790; Pub. L. 105-261, div. A, title VI, §617(b), Oct. 17, 1998, 112 Stat. 2041.)

AMENDMENTS

1998—Subsec. (d). Pub. L. 105-261 substituted “hardship duty” for “duty at a hardship duty location”.

1997—Subsec. (d). Pub. L. 105-85 substituted “duty at a hardship duty location” for “duty at certain places”.

1991—Subsec. (c)(1). Pub. L. 102-25 struck out “of this section” after “subsection (d)” in subpar. (A) and after “subsection (e)” in subpar. (B).

1980—Pub. L. 96-343 substituted “and warrant officers appointed as officers:” for “appointed as officers;” in

section catchline, and, in generally revising section, struck out provision for temporary appointment of enlisted members as officers, provided for pay and allowances for warrant officers who accept appointment as commissioned officers, and specified what pay and allowances include and what rates and allowances of a grade which an officer formerly held are for purposes of this section.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 6(c) of Pub. L. 96-343 provided that: “The amendments made by this section [amending this section and section 203 of this title] shall be effective with respect to periods for which pay and allowances are payable which begin after August 31, 1980.”

§ 908. Employment of reserves and retired members by foreign governments

(a) CONGRESSIONAL CONSENT.—Subject to subsection (b), Congress consents to the following persons accepting civil employment (and compensation for that employment) for which the consent of Congress is required by the last paragraph of section 9 of article I of the Constitution, related to acceptance of emoluments, offices, or titles from a foreign government:

- (1) Retired members of the uniformed services.
- (2) Members of a reserve component of the armed forces.
- (3) Members of the Commissioned Reserve Corps of the Public Health Service.

(b) APPROVAL REQUIRED.—A person described in subsection (a) may accept employment or compensation described in that subsection only if the Secretary concerned and the Secretary of State approve the employment.

(c) MILITARY SERVICE IN FOREIGN ARMED FORCES.—For a provision of law providing the consent of Congress to service in the military forces of certain foreign nations, see section 1060 of title 10.

(Added Pub. L. 97-295, §3(6)(A), Oct. 12, 1982, 96 Stat. 1304; amended Pub. L. 102-25, title VII, §702(b)(1), (c), Apr. 6, 1991, 105 Stat. 117; Pub. L. 103-160, div. A, title XIV, §1433(c), Nov. 30, 1993, 107 Stat. 1834; Pub. L. 103-337, div. A, title X, §1070(d)(6), Oct. 5, 1994, 108 Stat. 2858.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
908	37:801 (note).	Aug. 17, 1977, Pub. L. 95-105, §509(a)-(c), 91 Stat. 859.

In subsection (a), the words “for which” are substituted for “with respect to which” for clarity.

The text of section 509(c) of the Act of August 17, 1977, is omitted as unnecessary because of the definitions in 37:101.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-337 substituted “1060” for “1058”.

1993—Pub. L. 103-160 inserted headings in subsecs. (a) and (b) and added subsec. (c).

1991—Subsec. (a). Pub. L. 102-25 struck out “of this section” after “subsection (b)”.

Subsec. (b). Pub. L. 102-25 struck out “of this section” after “subsection (a)”.

§ 909. Special and incentive pay: payment at un-reduced rates during suspension of personnel laws

(a) AUTHORITY TO CONTINUE PAYMENT AT UN-REDUCED RATES.—To ensure fairness and recognize the contributions of members of the armed forces to military essential missions, the Secretary of the military department concerned may authorize members who are involuntarily retained on active duty under section 123 or 12305 of title 10 or any other provision of law and who, immediately before retention on active duty, were entitled or eligible for special pay or incentive pay under chapter 5 of this title, to receive that special pay or incentive pay for qualifying service performed during the retention period, without a reduction in the payment rate below the rate the members received immediately before retention on active duty, notwithstanding any requirement otherwise applicable to that special pay or incentive pay that would reduce the payment rate by reason of the years of service of the members.

(b) SUSPENSION DURING TIME OF WAR.—Subsection (a) does not apply with respect to a special pay or incentive pay under chapter 5 of this title, whenever the authority to provide that special pay or incentive pay is suspended by the President or the Secretary of Defense during a time of war.

(c) QUALIFYING SERVICE DEFINED.—In this section, the term “qualifying service” means service for which a particular special pay or incentive pay is payable under the authority of a provision of chapter 5 of this title.

(Added Pub. L. 107-107, div. A, title VI, §623(a)(1), Dec. 28, 2001, 115 Stat. 1142.)

EFFECTIVE DATE

Pub. L. 107-107, div. A, title VI, §623(b), Dec. 28, 2001, 115 Stat. 1143, provided that: “Section 909 of title 37, United States Code, as added by subsection (a)(1), shall apply with respect to pay periods beginning after September 11, 2001.”

CHAPTER 19—ADMINISTRATION

Sec.	
1001.	Regulations relating to pay and allowances.
1002.	Additional training or duty without pay: Reserves and members of National Guard.
1003.	Assimilation of pay and allowances.
1004.	Computation of pay and allowances for month or part of month.
1005.	Army and Air Force: prompt payments required.
1006.	Advance payments.
1007.	Deductions from pay.
1008.	Presidential recommendations concerning adjustments and changes in pay and allowances.
1009.	Adjustments of monthly basic pay.
1010.	Commissioned officers: promotions; effective date for pay and allowances. ¹
1011.	Mess operations: reimbursement of expenses. ¹
1012.	Disbursement and accounting: pay of enlisted members of the National Guard.
1013.	Payment of compensation for victims of terrorism.
1014.	Payment date for pay and allowances.

¹ So in original. Does not conform to section catchline.